

CHILD DAY CARE PROGRAMS

OFFICE OF BACKGROUND INVESTIGATIONS

PROCEDURES FOR CONDUCTING BACKGROUND INVESTIGATIONS AS REQUIRED BY §§ 63.2-1720.1, 63.2-1721.1, AND 63.2-1725 OF THE *CODE OF VIRGINIA*

These procedures are for:

- Licensed Child Day Centers
- Religious Exempt Child Day Centers
- Licensed Family Day System
- Family Day Home Approved by the Family Day System
- Unlicensed Child Care Programs that Receive Subsidy Funds
- Licensed Family Day Homes
- Voluntarily Registered Family Day Homes
- Certified Preschools

I. OFFICE OF BACKGROUND INVESTIGATIONS (OBI) GENERAL INFORMATION

A. HOURS OF OPERATION

OBI is staffed Monday – Friday from 8:30 a.m. to 4:00 p.m. Messages may be left on voicemail at other times and calls will be returned the next business day.

B. POINTS OF CONTACT

OBI Supervisor – Kristen Eckstein
Telephone: 804-726-7099
Email: kristen.eckstein@dss.virginia.gov

Criminal Background Investigations:

Supervisor – Christine Goulding
Telephone: 804-726-7091
Email: christine.goulding@dss.virginia.gov

Supervisor – Cheyenne Perry
Telephone – 804-726-7387
Email: cheyenne.perry@dss.virginia.gov

General Questions, Criminal:

804-726-7884
Email: backgrounds@dss.virginia.gov

Criminal Backgrounds Fax:

804-726-7095

Child Protective Services (CPS) Central Registry

Supervisor – Lois Kennedy
Telephone: 804-726-7766
Email: lois.kennedy@dss.virginia.gov

Supervisor – Cheyenne Perry
Telephone: 804-726-7387
Email: cheyenne.perry@dss.virginia.gov

General Questions:

804-726-7544

Billing Questions

804-726-7549

C. MAILING ADDRESS

Virginia Department of Social Services
Office of Background Investigations
801 East Main Street, 6th Floor
Richmond, VA 23219

NOTE: Please do not address mail to the Treasurer of Virginia.

D. OBI WEBSITE

OBI forms and procedures may be found at:

http://www.dss.virginia.gov/family/children_background.cgi

II. VIRGINIA CHILD ABUSE AND NEGLECT SEARCH

A. The following should be submitted to OBI

- Request for Search of the Central Registry and Release of Information Form
http://www.dss.virginia.gov/files/division/licensing/background_index_childrens_facilities/founded_cps_complaints/032-02-0151-12-eng.pdf
- \$10 fee for each search

Money orders, company/business checks, or cashier's check should be made payable to the Virginia Department of Social Services.

NOTE: Personal checks are not accepted for the central registry search.

B. Returned check fee

If a check is returned for non-sufficient funds, there is a \$50 charge. The provider will be notified of the returned check by telephone and/or letter. Since the bank requires that repayment be made within 10 days, the agency should take immediate action to have a replacement bank check (guaranteed funds) or money order issued to cover the background investigation fee and returned check fee of \$50.

If a check is returned for insufficient funds, all future payments for background investigation requests must be accompanied by either a money order or a cashier's check.

C. Important information regarding the Request for Search of the Central Registry and Release of Information Form

- Individuals will receive a results letter instead of the search form indicating if the person for whom the search was conducted was found in the central registry system. This letter will be emailed to the requesting agency.
- If a record of a founded complaint is located, the results letter will include information on which local department of social service (LDSS) office made the finding. You should contact the LDSS to obtain specific information about the complaint.
- Contact your licensing inspector if you are unsure how the information you obtained will impact hiring or retaining individuals.

Form requirements

- Print the form 2-sided document
- Use a separate blank page if additional space is needed for listing spousal and children's names
- Complete all fields and required information on the form
- Print legibly
- Have the form notarized
- Ensure the applicant's signature appears on the form
- Follow the directions when completing the form
- Mail the completed form with payment to:
Virginia Department of Social Services
Office of Background Investigations - Search Unit
801 East Main Street, 6th Floor
Richmond, VA 23219-2901

Actions to avoid

- Do not use white out or cross out information on the form
- Do not write on or cover the bar code
- Do not write in the margins
- Do not copy the form and make it smaller than 8" x 10"
- Do not staple the form
- Do not send extra documents along with the form (e.g. copies of birth certificates, marriage licenses or driver's licenses - such items will not be returned)

If the search form is not filled out correctly, it will be returned. Forms will now be scanned into the new system, so the completed form must be easy to read, with no additional marks or documents attached.

III. POINT OF CONTACT FOR CRIMINAL BACKGROUND INVESTIGATIONS

Each provider should designate one criminal background investigation contact person. All correspondence and questions from OBI about fingerprint background checks will be directed to this contact. In order to keep contact lists and addresses current, any changes in the designated point of contact should be reported to OBI.

IV. FINGERPRINT BASED CRIMINAL HISTORY SEARCH

The fingerprinting vendor, Fieldprint®, will collect all identifying information on the applicant, collect fees, take prints, and electronically submit the information to the Virginia State Police (VSP), the Federal Bureau of Investigations (FBI), and OBI. OBI staff will screen criminal history results received from VSP and FBI in order to provide the requesting provider a determination of eligibility on the individual being searched.

A. Cost of fingerprinting

Employees, applicants, agents, caregivers, approved providers in a family day system, household members	\$59.00
Volunteers	\$39.00

The total cost will cover fees for Fieldprint, Virginia State Police, FBI, and OBI. Payment will be due when an individual signs up for a fingerprinting appointment online.

*Note: Virginia Department of Social Services (VDSS) will be covering the cost of initial fingerprint based criminal history searches for those individuals in child day programs who are required to be fingerprinted by §§ 63.2-1720.1 and 63.2-1721.1 of the Code of Virginia. VDSS will pay for fingerprint based criminal history searches for the code sections listed above through September 30, 2019.

B. Registration

All individuals required to submit a fingerprint based criminal history search must register online with Fieldprint®. Below is a step-by-step guide to schedule a Fieldprint® appointment for a fingerprint-based criminal background check.

1. Access the Virginia Fieldprint® website at <https://fieldprintvirginia.com/>
2. Click “Schedule an Appointment” button.
3. Follow the on-screen instructions to register with Fieldprint® or log-in if you are an existing user.
4. On the “Reason” screen enter your Fieldprint Code. You cannot schedule the appointment without this Code. If you lose your Fieldprint Code, contact OBI at 804-726-7884.
5. Complete demographic information.
6. Under “Additional Information”, enter your “Facility ID” number found in the Fieldprint Code document from OBI. You cannot schedule the appointment without this ID. If you lose your Facility ID, contact OBI at 804-726-7884.
7. If you have lived out of state in the past five years, enter each location and dates starting with the most recent. If you have had more than five addresses out of state in the past five years, enter the five most recent addresses.
8. Make sure that the “Facility ID” you entered is correct and the facility you are being fingerprinted for is shown. If it is not correct, select back and re-enter the ID or contact the person who gave you the number.

9. Read through the "Authority for Release of Information". Check the "I Agree" box and provide information requested.
10. The "Find a Location" screen will have your home address. If you want to use that address to find a Fieldprint location nearest you, select "Find". If you want to enter a different address (ex. your work address) enter that address and select "Find".
11. Schedule an appointment by selecting a location, date, and time and selecting the "Schedule" button. You will see a pop up, select "Continue" if you are going to keep the appointment and "Cancel" if you want to choose a different time.
12. Print appointment confirmation (includes the Fieldprint® appointment number located above the appointment date & time) and bring it along with two forms of identification (one must be a picture ID). The appointment cannot be completed if these items are not present.

Acceptable Primary IDs include:

State-Issued Driver's License	State-Issued Non-Driver's License ID Card
U.S. Passport	Military Identification Card
Work Visa with Photo	Foreign Passport
DOD Common Access Card	Foreign Driver's License

Acceptable Secondary IDs include:

Credit Card/Debit Card	Bank Statement/Paycheck Stub
Birth Certificate	Marriage Certificate
Citizenship or Naturalization Certificate	Electric/Utility Bill
School ID w/Photograph	Vehicle Registration/Title
Voter Registration Card	Draft Record
Social Security Card	Transportation Worker ID Credential (TWIC Card)
Native American tribal document	Permanent Resident Card (I-551)

Rescheduling fees will be assessed if you fail to appear for your appointment or cancel within 24 hours of the scheduled appointment time.

Fieldprint codes and Facility IDs are sent to the facility point of contact for criminal background investigations. Contact OBI at 804-726-7884 if there is a question regarding the code or the facility ID.

If you have a question about which individuals in a program are required to be fingerprinted or other licensing questions, contact your licensing inspector. OBI will not be able to answer these questions.

If you have questions about scheduling an appointment, call Fieldprint at 877-614-4364.

Note: Fieldprint locations are handicapped accessible so adult household members with physical challenges that limit mobility will be able to access fingerprinting services.

C. REPRINTS

If fingerprints are rejected by the State Police or FBI, Fieldprint will contact the individual to schedule a new appointment. Reprints must be taken as soon as possible after being notified that a reprint is needed in order to complete the background investigation process and be in compliance with state law.

There is no fee for reprints.

D. NOTIFICATION OF NAME SEARCH

If fingerprints continue to be rejected by the Virginia State Police or by the FBI, OBI will request a name check. If this happens, the provider will be notified. Once the request is approved and the name check has been completed, a final determination letter will be sent to the agency for retention in the agency file.

V. EVALUATING CRIMINAL BACKGROUND INVESTIGATION RESULTS

OBI is responsible for screening the Virginia and FBI records for facilities.

Providers are notified of the individual's status based on evaluation of the information received from VSP and the FBI. OBI staff will screen the results against the barrier crimes list and determine if an individual is eligible. You can find a copy of the barrier crimes list here:

http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/background_investigations/guidance_procedures/barrier_crimes_for_child_day_programs.pdf

A. DETERMINATION LETTERS

OBI will email a determination letter to the provider for the individual who submitted fingerprints to let them know if the individual is eligible or not eligible to work with children.

There are different types of letters.

- Eligible –eligible to work with children
- Not Eligible –not eligible to work with children
- Unable to Determine – there is not enough information to determine if a person is eligible or not eligible to work with children

The following are reasons why a not eligible letter has been sent:

- An individual has a conviction of any barrier crime as defined in § 19.2-392.02. Convictions include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth
- An individual has a conviction of any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of conviction

A child day program cannot allow volunteer service or hire anyone who has received a “not eligible” letter.

B. UNABLE TO DETERMINE/ADEQUATE INFORMATION IS NOT AVAILABLE LETTER

This letter is sent when there is not adequate information to make a determination if a barrier crime has been committed. There are several common situations where this could happen. Sometimes the disposition has not been reported by the court to the State Police/FBI. There are situations where the record has been purged or destroyed by the court. If a charge is old, the courts do not always retain case information. In Virginia lower courts, such as General District, destroy their records after 10 years. In other situations, there is a charge, arrest, or conviction in another state and there is not a direct link to a barrier conviction in Virginia. Sometimes the determination letter is generated due to charges on the arrest history such as “fail to appear” or “contempt of court” charges. These are not barriers, but OBI researches the underlying charge to verify/confirm the original charge that initiated the fail to appear or contempt to make sure the original charge was not barrier related.

In each case, OBI has researched all available state and local record keeping systems, has contacted law enforcement, or has contacted the clerks of court where the conviction was documented and has not been able to determine whether the applicant was convicted of a barrier crime.

C. HOW AN AGENCY SHOULD RESPOND WHEN RECEIVING AN “UNABLE TO DETERMINE/ADEQUATE INFORMATION IS NOT AVAILBE” LETTER

The “Unable to Determine/Adequate Information is Not Available” letter is a final determination letter from OBI.

The decision to hire an individual with an “unable to determine/adequate information is not available letter” is up to the provider. It is recommend the provider take a statement from the individual about any arrests, charges, or convictions that may be on the criminal history record and document all information provided based on what the individual discloses. **If at any point, a barrier conviction is disclosed, the facility must treat the case as “not eligible”.** It is recommended that the individual sign the statement, the statement should be attached to OBI’s determination letter, and both documents be placed in the individual’s file

OBI is not allowed to release information from the criminal history records to providers.

VI. REQUESTING A COPY OF THE CRIMINAL HISTORY RECORD

A. FBI

If an individual wants to request a copy of their FBI criminal history record, they can visit the FBI website at <https://www.fbi.gov/>

B. VIRGINIA STATE POLICE

If an individual wants to request a copy of their Virginia criminal history record, they can visit the Virginia State Police website at: http://www.vsp.virginia.gov/CJIS_Criminal_Record_Check.shtm

VII. CHALLENGING CRIMINAL BACKGROUND CHECK RESULTS

If, after reviewing the identification record, the individual believes it is incorrect or incomplete in any respect and wishes changes, corrections, or updating of the alleged deficiency, he should make direct contact with the agency (court, law enforcement agency, etc.) that contributed the questioned information.

A. FBI

If an individual is denied because of information appearing on the individual's FBI record and it comes to the individual's attention that he is not the person of the record, the individual may initiate a challenge of the information contained in the record. The agency is required by state and federal laws to provide the individual with a copy of the challenge procedures. The challenge procedures can be found at:

<https://www.fbi.gov/services/cjis/identity-history-summary-checks>

B. VIRGINIA STATE POLICE

In instances where it comes to an individual's attention that his name or other descriptive information is a matter of record in the Central Criminal Records Exchange, and he is not the person of the record, then the individual may initiate a challenge of the information contained in the record. An individual should report this information to a local sheriff, police or State Police Headquarters and request to be fingerprinted for the purpose of challenging a criminal record. The challenge procedures can be found at: http://www.vsp.state.va.us/CJIS_CCRE.shtm#Challenge Record

The individual to be fingerprinted must show personal identification. The official taking the fingerprints must document on letter head that he has reviewed the individual's personal identification and obtained the fingerprints. This letter and the fingerprints are to be mailed to the following address:

Manager
Central Criminal Records Exchange
Virginia Department of State Police
P.O. Box 27472
Richmond, VA 23261-7472

Within five work days, the individual who initiated the challenge will receive written confirmation of the fingerprint search results, whether he is or is not the person of the record, and record modification(s) taken, if applicable.

Reports to a provider from OBI can be modified only after the individual challenges his record, it is corrected by the court or law enforcement agency, and the correction reported by the court/agency to the State Police or FBI. The individual must then submit fingerprints in order to obtain an accurate record.

If an applicant admits to having a barrier conviction or pending barrier charge, he is not entitled to proceed with the challenge procedure.

Applicants should not be told to contact OBI for more information. The provider should provide the individual with a copy of the barrier crimes and refer them to either the State Police or FBI websites to request a copy of their criminal record.

VIII. SAFEGUARDING AND DOCUMENTATION TO BE RETAINED

State and Federal laws prohibit secondary dissemination of criminal history records by the child day program.

A provider is responsible for safeguarding the background results. The following information is to be maintained in the applicant's file:

- Determination letter with the results of the fingerprint based background check
- Letter indicating the results of the search of the Virginia Central Registry
- Request for search of an out of state child abuse and neglect registry, if applicable
- Sworn Disclosure Statement

These documents may be retained in the individual's personnel file. The facility is responsible for safeguarding the documentation to prevent dissemination.